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EXTRAORDINARY

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Separate paging is given to this Part in order that it may be filed
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MINISTRY OF PETROLEUM AND CHEMICALS AND MINES AND METALS

(Department of Petroleum and Chemicals)

ORDERS

New Delhi, the 15th June 1970

S.O. 2192.—In pursuance of sub-paragraph (1) of paragraph 4 of the Drugs (Prices Control) Order, 1970, the Central Government hereby makes the following amendment to the Order of the Government of India in the Ministry of Petroleum and Chemicals and Mines and Metals (Department of Petroleum and Chemicals) No. S.O. 1873, dated the 18th May, 1970, namely :—

In the Table annexed to the said Order, in column (2), against serial No. 4. for the abbreviation and figures "Rs. 58.89 per Kg.", the following abbreviations, words, figures and brackets shall be substituted, namely :—

"Rs. 58.89 per Kg. (indigenous material) Rs. 110.00 per Kg. (imported material)."

S.O. 2193.—In exercise of the powers conferred by section 3 of the Essential Commodities Act, 1955 (10 of 1955), the Central Government hereby makes the following order to amend the Drugs (Prices Control) Order, 1970, namely :—

1. (1) This Order may be called the Drugs (Prices Control) Amendment Order, 1970.

(2) It shall come into force on the date of its publication in the Official Gazette.

2. In the Drugs (Prices Control) Order, 1970,—

(i) in paragraph 2,—

(a) for clause (i), the following clause shall be substituted, namely :—

(i) "intermediary" means any person by whatsoever name called whether working independently or as an employee of the manufacturer who is

engaged in the distribution or sale of a drug between the manufacturer and the retailer and includes a distributor and a wholesaler of drugs';

(b) for clause (1), the following clause shall be substituted, namely:—

'(1) "manufacturer's price" means the price calculated in accordance with the provisions of this Order at which a formulation shall be sold by a manufacturer, importer or distributor to an intermediary and where an intermediary is an employee of the manufacturer, importer or distributor, the said price shall include the trade commission payable to such intermediary;'

(ii) in paragraph 5.—

(a) in sub-paragraph (1), the following provisos shall be inserted at the end namely:—

"provided that the Central Government may for sufficient cause, either generally or in individual cases, extend the said period of two weeks to four weeks;

Provided further that every importer of a bulk drug shall report to the Central Government within 15 days of every import, the landed cost of the imported bulk drug and the selling price thereof and he shall not thereafter increase the said selling price without the prior approval of the Central Government."

(b) after sub-paragraph (3), the following *Explanation* shall be inserted, namely:—

"*Explanation.*—Landed cost for the purposes of this paragraph means the cost of import inclusive of customs duty and clearing charges."

(iii) after paragraph 5, the following paragraph shall be inserted, namely:—

"5-A.—*Power to direct manufacturers to sell bulk drugs to formulators.*—(1) The Central Government or any officer duly authorised by the Central Government in this behalf, may, from time to time, by order direct any manufacturer of bulk drugs to sell to such formulators, such bulk drugs and at such prices as may be specified therein.

(2) While making any direction under sub-paragraph (1), the Central Government or the officer making the direction, as the case may be, shall have regard to all or any of the following factors, namely:—

(i) pattern of distribution of any particular bulk drug in the past;

(ii) legitimate requirements of the manufacturer of bulk drugs for formulation purpose;

(iii) legitimate requirements of other formulators in the country; and

(iv) planned growth of the pharmaceutical industry in conformity with the policy of the Central Government from time to time.

(3) Every manufacturer of bulk drug to whom a direction is made under sub-paragraph (1) shall be bound to comply with such direction.

(4) For the purpose of making any direction under sub-paragraph (1), the Central Government or any officer authorised by it in this behalf may call for such information from manufacturers, importers or distributors of bulk drugs as may be considered necessary, and every manufacturer, importer or distributor from whom any information is called for shall be bound to furnish such information within such time as may be specified by the Central Government or such officer.

(iv) in paragraph 8.—

(a) after the words "manufacturer's price" at the two places where they occur the words "the price at which the formulation is sold to a retailer (Inclusive of excise duty)" shall be inserted;

(b) for the first proviso, the following proviso shall be substituted, namely:—

"Provided that the Central Government may for sufficient cause, either generally or in individual cases, extend the said period of two months to such further period or periods as it may deem fit, so however, that the period or periods so extended shall not exceed four months from the date of commencement of this Order in any case:"

(v) in sub-paragraph (1) of paragraph 13, the words "except with the prior approval of the Central Government" shall be added at the end;

(vi) in paragraph 14,—

(a) in sub-paragraph (1),—

(i) in clause (2) of the proviso, the following words shall be inserted at the end, namely:—

“or such higher mark-up as the Central Government may permit in any case having regard to the circumstances of that case”;

(ii) after the proviso, the following *Explanation* shall be inserted, namely
“*Explanation.*—Formulation based on essential bulk drugs” means a formulation which contains one or more of the essential bulk drugs as major therapeutic ingredient.”

(b) in sub-paragraph (2),—

(i) before the existing provisos, the following proviso shall be inserted as the first proviso, namely:—

“Provided that the Central Government may for sufficient cause, either generally or in individual cases, extend the said period of two months to such further period or periods as it may deem fit, so, however that the period or periods so extended shall not exceed four months from the date of commencement of this Order in any case.”;

(ii) in the existing first proviso, for the words “Provided”, the words “Provided further” shall be substituted;

(iii) in the existing second proviso, for the words “provided further”, the words “Provided also” shall be substituted;

(vii) in paragraph 18, the word “bulk” shall be omitted;

(viii) in paragraph 21, the following proviso shall be added at the end, namely:—

“Provided that if a manufacturer or importer also functions as a distributor in respect of drugs marketed or imported by him through the medium of a wholesaler, the commission payable to the intermediaries shall be such percentage as may be negotiated by him within the limits mentioned in this paragraph so however that a commission of not less than 2 per cent. of the retail price shall be allowed to the wholesaler.”;

(ix) in paragraph 22, the words “excise duty” shall be omitted.

(x) in Schedule II, in Form No. 2, the existing column 5 shall be re-numbered, as column 6, and before column 6 as so re-numbered, the following shall be inserted as column 5, namely:—

“The price at which the formulation is sold to retailer (inclusive of excise duty)

5”.

B. MUKERJI, Secy.

(Department of Petroleum and Chemicals)

CORRIGENDUM

New Delhi, the 15th June 1970

S O. 2193A.—In the notification of the Government of India, in the Ministry of Petroleum and Chemicals and Mines and Metals (Department of Petroleum and Chemicals) No. S.O. 1752 dated the 16th May, 1970, published on pages 761—775 of the Government of India Gazette Extraordinary, Part II, Section 3, sub-section (ii):—

(i) In para 6, for the abbreviations, figures, words and brackets

“($\frac{1+MU}{100}$)” read “($1 + \frac{MU}{100}$)”

(ii) In para 10, for the word “formation” read “formulation”;

(iii) In sub-paragraphs (1) of paragraph 14, for “price” read “prices”;

(iv) In sub-paragraph (2) of paragraph 14, for the existing first proviso, read:

“Provided that pending the approval of the Central Government, the manufacturer, importer or distributor may market his formulations as per price list so submitted”;

(v) In paragraph 18 for the word “formulations” read “formulation”;

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- (vi) In paragraph 21(i), after the word *drugs*, for the full-stop, read “; and”
- (vii) In Form No. 3, against item No. 6, in the Table,
- (a) the heading of column 2, shall be substituted by the following:—
“Manufacturing prices asked for”
- (b) the heading of column 3, shall be substituted by the following:—
“Retail prices asked for (inclusive of excise duty)”.
- (viii) In schedule III, in item No. 2, the word “bulk” shall be *inserted* between the words “of” and “drugs”.

R. J. BHOJWANI, Under Secy.

ERRATUM

Order No. 17(7)/70-Ch. III, dated 16th May, 1970 of the Ministry of Petroleum and Chemicals and Mines and Metals (Department of Petroleum and Chemicals), published as S.O. 1752 at pages 761—775 in the Gazette of India Extraordinary, Part II—Section 3—Sub-section (ii), dated 16th May, 1970, the Issue number should be read as “180” instead of “181”.